

Proposals in Congress to Make Constitution Amending Easier

BY G. GOULD LINCOLN.

WHEN the Constitution of the United States was framed by the forefathers of the country, it was taken to be impossible of change or amendment until after any proposed change had been carefully and had received the real support of the great mass of the people. Since the date of the Constitution's adoption in 1789 the fundamental law of the land has been amended nineteen times—and the first amendments, containing the "bill of rights," which safeguard freedom of speech and of religious belief, etc., were adopted in 1791. The rest of the amendments, nine in number, are the only changes in the Constitution made in the course of 131 years. They deal with slavery, equal rights for citizens irrespective of color, federal income taxes, the election of United States senators by popular vote, prohibition and woman suffrage.

But because the Constitution has been amended so few times does not mean that many men both in and out of Congress have not been restive under the provisions of the Constitution, and have not advocated easier and simpler methods of changing the fundamental law. Senator La Follette of Wisconsin is the latest to urge a constitutional amendment. He proposes to curb the federal courts, and, in effect, take from the Supreme Court the right to determine whether a law enacted by Congress conforms to the Constitution. In the opinion of Senator La Follette, there has grown up in this country a "judicial oligarchy," headed by the Supreme Court, and this oligarchy should have its wings clipped. He made the charge during an address before the American Federation of Labor, dealing particularly with the decision of the Supreme Court holding the child labor law unconstitutional. He has reiterated the charge on the floor of the Senate. The American Federation of Labor has taken up the matter, and has committed itself to an amendment of the Constitution in line with that proposed by the Wisconsin senator.

The plan of Senator La Follette is a congressional veto of decisions of the Supreme Court. He will offer a resolution proposing an amendment to the Constitution which shall hold: "That no inferior federal judge

shall set aside a law of Congress on the ground that it is unconstitutional. 2. That if the Supreme Court assumes to decide any law of Congress unconstitutional, or by interpretation undertakes to assert a public policy at variance with the statutory declaration of Congress, which alone under our system is authorized to determine the public policies of government, the Congress may, by repealing the law, nullify the action of the court.

If the proposal of Senator La Follette—which the American Federation of Labor has apparently taken as its own—should be adopted, then any law which Congress should see fit to pass by a majority vote would be law of the land and there would exist in the courts no protection against citizens of the country under the Constitution being violated or not. The President may veto the bills passed by Congress, but the Congress has the power to override his veto by a two-thirds vote. In the case of the judicial veto exercised by the Supreme Court, holding a law unconstitutional, the plan is to provide for overriding by a mere majority vote.

Suppose Congress, for example, should pass a law in any way limiting the freedom of religious worship, or setting up a state church. The courts, under the proposed plan, would not have the right to hold this law unconstitutional—even though it violates the express provision of the Constitution. The Supreme Court might venture an opinion that it was not constitutional. But if Congress again passed the law by a majority, the opinion of the Supreme Court would be of no avail. It would, in effect, provide for the amendment of the Constitution by a law passed by Congress. The Supreme law of the land, the Constitution, would no longer be in any different situation from any law passed by Congress. In passing, it may be remarked that now it requires a two-thirds vote of Congress to submit a proposed amendment to the states and that then the amendment must be ratified by the legislatures of three-fourths of the states before it becomes effective.

Senator Owen of Oklahoma has introduced in several Congresses a resolution proposing easier methods of amending the Constitution. Such a resolution is now before the Senate judiciary committee. But he has not the power to take from the Supreme Court the power of passing on the constitutionality of a

law of Congress. His resolution provides that the Constitution may be amended "in the following manner and in no other way: An amendment or amendments or the calling of a constitutional convention may be proposed: 'By a majority vote of the members of each house of Congress.

"By either house should the other house twice reject the proposal, and a failure for three months to act favorably shall constitute a rejection. "Congress shall propose an amendment or amendments or the calling of a constitutional convention when requested by a majority of the state legislatures. Congress or either house may submit competing measures."

The amendments so proposed are to be taken upon, not by state legislatures, but directly by the people in the states, and a majority of the votes so cast in a majority of the states, together with a majority of all the votes cast thereon, shall ratify. The constitutionality of many laws enacted by the legislatures of the states, as well as by Congress, has been questioned in the courts. In very many cases the constitutionality of the laws so enacted has been upheld by the court. To mention a comparatively recent case which touched Washington closely—the Supreme Court upheld the constitutionality of the Ball rent act for the District of Columbia. In many other cases, it is true that the Supreme Court has held that laws enacted have been in conflict with the provisions of the Constitution. Twice the court has held child labor laws unconstitutional. It held the first income tax law unconstitutional, and the Constitution was amended to meet the difficulty.

The late Col. Theodore Roosevelt was one of those who urged that the will of the people be registered if the courts should render decisions which were contrary to the wishes of the people. He urged the recall of judicial decisions. The recall of judges has had advocates, too, in some quarters. But whether the people of the country would desire to have the legislative acts of Congress, as approved by the President or passed over his veto, set up as supreme, with no check whatever from the courts, and without regard to their constitutionality, when considered in connection with the Constitution of the United States, is a matter which has never yet been determined. Senator La Follette means to have the question decided, if he can.

Study of the Coal Situation Shows That Crisis May Be Here in August

BY WILLIAM J. HEATLEY.

COAL reserves or stocks of the country are rapidly being depleted. Figures in the possession of agencies studying the coal situation indicate that there is only enough bituminous coal on hand, together with the comparatively small amount being mined, to last from four to five weeks.

There are no stocks of domestic anthracite coal on hand, with the exception of pea size, and no anthracite is being mined. The stocks of pea size anthracite total only 1,200,000 tons, while that of steam size anthracite totals a like amount. What anthracite coal there is, with the exception of the pea size, is in the hands of the dealers, and the government investigators have found no accurate way of collecting information on this point. These stocks, it was said at the Department of Commerce, have practically all been sold.

From an examination of the figures in the possession of the geological survey of the Department of the Interior and the fuel division of the Department of Commerce, it would appear that the coal situation is fast becoming alarming, with no relief in sight.

Accurate statistics on the stocks of anthracite and bituminous coal are not available later than March 1, in the geological survey, that bureau not having the funds with which to send out the investigators to get the information, but the Department of Commerce has been collecting later information.

It is apparent from the information in the possession of the government that the demand for coal is increasing with the lifting of the business depression, but in the face of this the production is decreasing.

of the country will be hardest hit by the shortage.

There has been little change during the week in the number of men on strike, but the consumers' stock piles are being drawn upon to meet the deficit between consumption and production. How great is the draft upon stocks cannot be accurately stated, because the rate of consumption is not known, but there are evidences that business is increasing and the consumption of coal is rising.

Figures collected by the geological survey show that on March 1 consumers had in storage approximately 52,500,000 tons of soft coal. By April 1, considering the rate at which coal has been leaving the mines recently, this reserve will have increased to at least 53,000,000 tons. The quantity on April 1 was about equal to the maximum reached at the end of the war. It was pointed out, however, that stocks are never evenly divided. In every community there are consumers who store virtually no coal. It must also be remembered that a certain minimum reserve is necessary for steady operation, it being added that when the stocks dropped to 20,000,000 tons in 1920 the market was seriously disturbed.

Industrial consumers in New England as a whole carried a reserve of seventy-one days, and for the United States the average was fifty-six days. Retail dealers as a class were the only large group of consumers to report smaller stocks on March 1 than at the beginning of the year. At the rate their customers were calling for soft coal in the two months of January and February coal dealers had a stock sufficient to last twenty-three days.

The danger level in the stock of soft coal has been placed at 20,000,000 tons, and, as pointed out before, industries were seriously disturbed in 1920, when the stocks reached that level. The geological survey officials pointed out that the present market has quickened, as indicated by the rising spot prices—that is, the prices paid for coal not sold on contract. Some districts now are producing at a maximum, but in others, particularly the Southern Appalachian, which includes part of Kentucky, Tennessee and Alabama, and the field of the Rocky Mountain states, including Colorado, Utah, New Mexico and Washington, not affected by the strike, demand is not yet active enough to call out full-time production.

It has been estimated that the stock of bituminous coal in the hands of railroads, industrial consumers, public utilities, retailers and warlike coal, April 1, 1922, approximated 63,500,000 tons. Assuming a weekly consumption of 3,100,000 tons, the total consumption up to June 3 was 74,250,000 tons, of which 38,164,000 tons were received from the mines working, the balance being taken

from stock. There is, therefore, estimated to be in storage, June 3 of this year, 32,584,000 tons. Of this tonnage, 12,564,000 can be safely used before there is a danger of a coal panic. Stocks are not, however, evenly divided. It is, therefore, probable some localities may already be below a safe figure, but with production continuing, and assuming the coal now being produced can be evenly divided, it will be four or five months before a general shortage occurs.

Normal coal production in all the bituminous fields is placed at 12,315,000 tons a week, but the amount now being taken from the mines is estimated to be from 5,000,000 to 7,000,000 tons below normal, and consumers' stocks of both anthracite and bituminous coal are being drawn on steadily.

Examination of the figures for the eleven weeks of the strike showing the loading of fresh-mined coal on the cars indicated a gradual increase until the eleventh week, June 12 to 17. The week started out well, but on Thursday serious congestion of railroads yards and sidings in certain districts of southeastern Kentucky began to interfere with the placement of empty cars at the mines. As a consequence loadings were about a thousand cars below those of the previous week. It was said to be unlikely, therefore, that the total output for the eleventh week would do no more than reach the 5,000,000 mark.

Unless there is a return to operations in the anthracite fields, the consumers of domestic size coal in the country are likely to be hardest hit by the shortage, because soft steam coal is being mined in some quantities. There was no break noted in the deadlock in the anthracite fields in the eleventh week of the strike. Reports to the government show that the production practically continued at zero. In that week the output was limited to 253 cars of fifty tons each, or a total of 12,650 tons. But this mere drop in the bucket was not level, but coal dredged from the rivers. It was steam coal, and therefore would not affect the demand in domestic sizes. In the corresponding week of a year ago, the figures show that 1,953,000 tons of hard coal were produced.

Engineers Designate Management Week

G. O. P. LEADERS FEELING A SHADE MORE CHEERFUL

BY N. O. MESSENGER.

THEY are feeling much better, thank you, the bigwigs of the republican party in Congress and the administration. Awhile back they were very low in spirit, as everything seemed to be going against them, but now they are cheering up considerably. It is declared that things are improving in the political field, and the outlook is clearing in the House and Senate for progress in legislation.

The party leaders are taking a fresh hold on courage and resolution, and yow they are going to battle their way through their difficulties and be on the crest of a rising tide of fortune, come November. The action of the republican leaders in the Senate in agreeing upon a program of legislation appears to have had a stimulating effect all along the line, clearing the atmosphere in the House as well, and bracing up the party morale generally.

Once the tariff bill is out of the way and the bonus bill passed, and either vetoed or signed by the President, the republican membership of the House and those senators who are up for re-election will be able to buckle down to the hard work of the strenuous campaign ahead of them.

All the politicians are concerned in the possibility of cleaning up the legislative deck in time to give a breathing spell before the election, but it is not yet clear how this is to be done. The tariff bill is bound to be a long time in conference, with its more than 2,000 amendments.

Since the republicans of the Senate have resolved not to permit adjournment or recess until the tariff and the bonus have been disposed of, it is evident that there will have to be considerable speeding up in the next few weeks. The fact that the President and the party leaders in Congress are in better accord than lately on everything except the bonus bill gives the leaders hope that swifter progress can be made with legislation from now on.

The republicans seem to be agreed upon the proposition that it would be very unfortunate if they have to go to the polls in November with the tariff and the bonus bills still unacted upon, and every effort is to be bent to preventing such a mishap.

The reports which they get of the sentiment of the public about the tariff are that the country is more interested in having the tariff out of the way than in the details of rates and schedules. The democrats, for their part, hold the opinion that they will be able to show that all the rates tend in the one direction of raising costs to the consumer, and that shading here and there do not amount to anything, so they will be not particularly interested in the squabbles of the conference committee.

As showing how political theories and practical experience often fail to jibe, consider what is going on now. Customs reports show enormous importation of manufactured goods coming in under the low rates, or no rates, of the present tariff law. Domestic statistics show increasing costs to the consumer on many lines of goods. Where is that theory of lower prices to the purchaser with low tariff and a flood of imports? It is contained in some quarters that the importers are reaping monstrous profits, and, of course, want to delay the proposed new tariff rates as long as possible.

Then, it is urged that when the new law goes into effect prices will be still further increased. And today the ultimate conality, after tariff legislation. It doesn't seem to promise him much benefit one way or the other.

Some of the politicians are wondering if the prosperity which the protective tariff men expect from the starting up of mills may not be submerged by a wave of unemployment should the coal strike continue and a rail strike come on, and whether even the farmer, who is now reported to be feeling easier, may not be caught in the general slump which would be caused thereby.

The farmer is said to be unquestionably more contented with conditions now than six months ago, and, as one politician put it, "the farmer is the main asset of the republican party at this time." The farmer is not worrying about the tariff, because he has seen protected by the emergency legislation since this administration came into power; that was the first thing attended to, and he will remain protected until the new law supersedes the present law.

The republicans are looking to the great farming states to stay with them in November and furnish a nucleus of political strength to be added to by the normal republican vote in the industrial communities.

The republicans point out that the flurry in the republican ranks showing a recedence of progressivism as against the old guard does not mean democratic votes.

It means, so they say, that the votes that fall into the ballot boxes will not be votes for democratic candidates from this element, but votes for republican candidates. In other words, they contend that whatever is to be done along progressive lines will still be entrusted to the republican party, made up of progressives and old guard.

Chief Justice Taft the Fourth ex-President to Be Paid Honors in Europe.

tion abroad are made in the biographies of Fillmore. Beyond the fact that he declined the degree of D. C. L. from the University of Oxford, very little notice seems to have been given his experiences. It is mentioned that he refused the degree because he disliked to participate in the ceremonial attaching to its bestowal. He made another trip abroad in 1866, but only a line in his biography covers that visit.

Uncle Sam Has Not Contributed To Fund for Retiring Workers

BY WILL F. KENNEDY.

THERE are today approximately 350,000 government employees who are shareholders in the civil service retirement fund, to which they contributed \$12,513,636.69 last year and approximately \$14,000,000 this year. This fund has been raised entirely from deductions of 2 1/2 per cent from the pay of the government workers. The United States government has not paid one cent toward the establishment of this fund, although it was understood in passing the legislation that the federal government would be a generous contributor, and although the operation of the retirement act will result in economy and efficiency by making it possible to retire from the service worn-out employees without committing acts of inhumanity.

Furthermore, the retirement act itself provides for a board of actuaries "whose duty it shall be to annually report upon the actual operations of this act, with authority to recommend to the commissioner of pensions such changes as in its judgment may be deemed necessary to protect the public interest and to maintain the system upon a sound financial basis."

This commission submitted a report last December which called for the attention of Congress by the necessity for "definite annual appropriations from the government to cover the government's share of the national deficiency contributions and for the accumulation of these appropriations in the fund at interest in the same way as the unexpended contributions of employees are now accumulated."

This board of actuaries also made four definite recommendations looking to the removal of certain existing inequalities in the law. Yet Congress has not seen fit to consider measures to carry out the recommendations as provided for in the act itself, and according to those who should rather such measures, is not likely to do so for some time to come.

As nearly as the Civil Service Commission can say there are today 368,882 employees of the government in the District and throughout the entire country. On May 31, the number of government employees in the National Capital was 73,353. This includes those who are paid from lump sum appropriations as well as those on the statutory rolls whose pay is provided for specifically in the annual appropriation bills. Practically all of these come within the scope of the retirement act.

Very recently the act has been broadened to take in nearly 27,000 additional employees. By an executive order of June 7, 1922, the President covered in unclassified employees receiving less than \$600. About 22,600 are affected by the executive order.

NATIONAL prestige in a far-away country isn't measured in dollars and cents and voters back home don't care a thing for the Navy and there's a theory of forty days—twenty there and twenty back—would amount to something over \$200,000. Congress has appropriated \$1,000,000 for representation by the United States in the Brazilian centennial, but this sum must include the erection of a permanent "imposing fleet, or whether this country will be content to send down a second-class vessel or so to keep up appearances.

The issue may be brought to a head soon, for William G. Stevens, president of the American Chamber of Commerce in Brazil and a delegate representing the United States at the centennial, has come post haste from Rio de Janeiro to urge a naval representation commensurate with that planned by Japan, England and France.

Naval officers are inclined to view the situation pessimistically. The Navy bill has made them so. They haven't the fuel oil needed now for ordinary maneuvers, they say, let alone an extraordinary maneuver, such as sending a first-class fleet chasing "way down to Brazil" on a twenty-day cruise. And they've come to feel that every time a Representative hears the Navy wants something extra, cries of "Bloody murder, stop this!" echo back and forth from Capitol Hill, and the Congressional Record is bulky in defense of the voters who have to foot the bill. It seems a special appropriation for the trip would be necessary, and special appropriations for the Navy aren't the most popular things in the world these days.

The Navy Department has not heard yet what sort of fleet is going to be sent from France, England and Japan. But the impression has been created that all three powers are preparing to send fleets in keeping with the significance of the occasion and the importance of the world today. Mr. Stevens came to the United States on the strength of reports that the United States did not intend to send a first-class fleet because of the shortage, or rather scarcity, of fuel.

which becomes effective September 1, and about 4,000 are affected by the amendment, effective from date of approval, June 17.

The fund is raised by each unit of the government service withholding 2 1/2 per cent from the salary of each employee and then reporting the total amount deducted in each department to the division of bookkeeping and warrants in the Treasury Department to be included in an annual report to Congress. The total deductions reported for the fiscal year ended June 30, 1922, were as follows: Legislative, \$13,599.62; executive proper, \$18,651.34; Panama canal, maintenance and operation, \$28,100.83; State Department, \$23,210.23; Treasury Department, \$1,331,965.47; independent bureaus and offices, \$205,275.45; District of Columbia, \$47,658.41; War Department, \$1,124,918.71; Navy Department, \$2,073,388.08; Interior Department, \$270,394.52; Post Office Department, including postal service, \$6,557,962.51; Department of Agriculture, \$48,311.59; Department of Commerce, \$146,653.37; Department of Labor, \$77,076.83; Department of Justice and judicial, \$18,069.21—making a total of \$12,513,636.69.

As nearly as can now be approximated, the deduction during the fiscal year which ends June 30 will aggregate \$14,000,000.

This year offers a particularly difficult forecast on account of the large number separated from the service in the various departments and the consequent abnormal demand for refunds of money which these dismissed employees have paid into the fund and a return of which they are entitled to.

The number of annuants on the roll of July 1, 1921, was 6,471, and on July 21, 1922, there will be about 7,500, or an increase of 1,000 during the present fiscal year. There was expended last year to those 6,471 annuants \$2,599,568.52. The amount that will be paid during the current fiscal year to the 7,500 annuants will be approximately \$4,200,000.

During the fiscal year 1921 there were 26,116 claims for refunds, which aggregated \$322,918.82, and during the current fiscal year there are about 70,000 refunds aggregating approximately \$2,200,000.

The law provides how the fund raised by the deduction of 2 1/2 per cent from each employee's salary shall be invested. It is now invested in liberty bonds bearing 4 1/2 and 4 per cent interest. These liberty bonds were bought in the open market and below their face value, so that the ultimate value of the fund is enhanced. Bonds to the par value of \$17,384,250 were bought at an investment cost of \$17,189,604. The interest and profits amount to \$537,554.64.

The board of actuaries has recommended to Congress, through the Secretary of the Interior, that if the present scheme of benefits were kept

flag, lying alongside the latest ships of Japan, England and France in the harbor of Rio de Janeiro. It would be unfortunate, to say the least, if this country did not live up to all that has been said concerning good will and fellowship among the American republics. The United States representation at Brazil's centennial should be the outstanding feature of the occasion, a thing to be marked on the calendars of the Latin American republics. It would not do to fail in any respect.

and the employees contributed at 2 1/2 per cent of their salaries, the government should be required to put aside 2.31 per cent of the pay roll for the retirement benefits of employees for about thirty years, after which time 1.06 per cent of salaries of employees would be sufficient to support the fund.

In discussing the contemplated contribution of the federal government to the fund Representative Frederick Lehighbach, chairman of the civil service committee of the House, points out that now, while the government is borrowing money and while the fund raised by deductions from the pay of employees is sufficient to meet all annuity requirements, it would be folly for the government to borrow money to put into this fund.

The government's position is that it has contracted to pay certain fixed annuities to government employees if they pay in 2 1/2 per cent of their salaries. Whenever the contributions of the employees are not sufficient to meet the annuity disbursements the federal government will make up the deficit. The government is now a borrower from the employees' contributions, and sooner or later these borrowings must be repaid.

It is desirable, Chairman Lehighbach stresses, that legislation be put through as soon as possible, although it will not be necessary for ten years to come, but it would be a saving to do it now. If the government must borrow it had better borrow from the stock market as it is now doing. As soon as the Treasury is in easier condition it will be wise for Congress to take up the matter of making definite annual appropriations to the fund merely to keep down what would be a cumulative cost in the future. This will not be undertaken until the danger of a deficit in the Treasury is averted.

But the entire system rests on the good faith of the government. It is inconceivable that the government after collecting contributions from employees over a period of years would "weitch" on paying annuities when due, and any individual employee could go into the Court of Claims and get his annuity.

Regarding the four recommendations made by the board of actuaries to remove certain inequalities, Representative Lehighbach argues that they viewed the matter from an actuarial and insurance standpoint, while the government is not and never has intended to pay annuities as insurance in proportion to premiums paid. He insists that the fundamental principle on which the retirement legislation is based is to take such precautions as a reasonably prudent person should take to safeguard against waste in age when one's earning capacity is gone. Experience showed that government employees were not making such provision, and so legislation was passed providing for a compulsory contribution of 2 1/2 per cent to such an annuity fund.

First-Class American Fleet Wanted To Be Present at Brazil Exposition

BY BEN McKELWAY.

NATIONAL prestige in a far-away country isn't measured in dollars and cents and voters back home don't care a thing for the Navy and there's a theory of forty days—twenty there and twenty back—would amount to something over \$200,000. Congress has appropriated \$1,000,000 for representation by the United States in the Brazilian centennial, but this sum must include the erection of a permanent "imposing fleet, or whether this country will be content to send down a second-class vessel or so to keep up appearances.

The issue may be brought to a head soon, for William G. Stevens, president of the American Chamber of Commerce in Brazil and a delegate representing the United States at the centennial, has come post haste from Rio de Janeiro to urge a naval representation commensurate with that planned by Japan, England and France.

Naval officers are inclined to view the situation pessimistically. The Navy bill has made them so. They haven't the fuel oil needed now for ordinary maneuvers, they say, let alone an extraordinary maneuver, such as sending a first-class fleet chasing "way down to Brazil" on a twenty-day cruise. And they've come to feel that every time a Representative hears the Navy wants something extra, cries of "Bloody murder, stop this!" echo back and forth from Capitol Hill, and the Congressional Record is bulky in defense of the voters who have to foot the bill. It seems a special appropriation for the trip would be necessary, and special appropriations for the Navy aren't the most popular things in the world these days.

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By sending a fleet of three first-class dreadnoughts to Brazil under command of an officer of high rank, an admiral, preferably the commanding officer of the Atlantic fleet. The cost for fuel, counting on a cruise of forty days—twenty there and twenty back—would amount to something over \$200,000. Congress has appropriated \$1,000,000 for representation by the United States in the Brazilian centennial, but this sum must include the erection of a permanent "imposing fleet, or whether this country will be content to send down a second-class vessel or so to keep up appearances.

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